



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-03574

Work-Product

COUNSEL:

Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be given Servicemembers' Group Life Insurance Traumatic Injury Protection Program (TSGLI) benefits for the inability to perform Activities of Daily Living (ADLs) between 31 and 120 days after his injury and for limb salvage of his right leg.

APPLICANT'S CONTENTIONS

The TSGLI office has been dismissive of his claimed losses and has discounted and ignored statements in support of his claim as well as medical opinions favorable to his claim. The severity of his injuries was minimized and his need for standby assistance for at least 120 days is explained in detail by a registered nurse. Furthermore, if it were not for the surgeries at issue, amputation would have resulted. Additional medical evidence has been submitted that was not mentioned or previously considered in the previous decisions.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a medical retired Air Force Reserve staff sergeant (E-5).

Signed by the applicant on 15 Oct 20 and signed by his orthopedic surgeon **Work-Product** on 12 May 20, SGLV Form 8600, *Application for TSGLI Benefits*, provided by the applicant, indicates he applied for TSGLI due to his traumatic accident which occurred on 1 Mar 19. The applicant applied for losses due to hospitalization of 15 consecutive days and limb salvage of the right leg. Comments from the orthopedic surgeon state he underwent irrigation and debridement, including bone debris of the right femur and tibia fractures, intramedullary nailing of right femur and open reduction internal fixation, right proximal tibia with distal interlocking and primary closure of complex wounds on 1 Mar 19.

Signed by the applicant on 15 Oct 20 and signed by registered nurse (RN) **Work-Prod...** on 17 Feb 21, SGLV Form 8600 indicates the applicant applied for TSGLI due to his traumatic accident which

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occurred on 1 Mar 19. The applicant applied for losses due to hospitalization of 15 consecutive days and the inability to perform ADLs, bathe, dress, toilet, and transfer without assistance for over four months. The medical provider's comments stated he required assistance with all ADLs due to the non-healing of his right lower extremity (RLE) femur fractures, lengthy recovery with extended orders for RLE non-weight bearing (NWB). High levels of pain with activity, extreme fatigue, weakness and restricted range of motion impaired his ability to perform ADLs and at the time of discharge from physical therapy on 12 Jul 19, he still required standby assistance with bathing.

The decisional letter from ARPC, undated, provided by the applicant, indicates his claim for the loss of the ability to independently perform two or more ADLs due to other traumatic injuries (OTI) for 30 or more days was disapproved. The letter stated the RN certifying his claim did not provide care for his injuries or observe the claimed loss and provided this opinion based on a review of the records made available to her. Further comments stated by 27 Mar 21, he was independent in performing eating and upper extremity dressing with modified independence for showering/bathing, lower body dressing (including footwear), transfers (to include toilet), and toileting hygiene, concluding he had the ability to independently perform all covered ADLs by the time of discharge from inpatient rehab.

On 18 Feb 21, the applicant appealed the decision requesting the TSGLI office reevaluate all evidence to support his claim for inpatient hospitalization, limb salvage surgeries, and OTI ADL losses stating the TSGLI office must work within the guidelines of 38 C.F.R. 9.20 to which the Secretary shall give the benefit of the doubt to the claimant reducing the preponderance of evidence to a lesser substantial evidence standard (document provided by the applicant).

On 19 Aug 21, the APRC TSGLI Certifying Office disapproved the applicant's first appeal claim for the evaluation of limb salvage. This letter indicated there were no medical records documenting evidence of significant vascular or neurovascular injury, discussion of a possible need for amputation of the limb, or additional surgical procedures after the initial reconstructive and stabilizing surgery. When a member opts to save a limb rather than have the limb amputated, the member undergoes a series of operations designed to avoid amputation typically involving bone and skin grafts, bone resection, reconstructive, and plastic surgeries often occurring over a period of months or years. A complex leg or arm fracture does not automatically qualify as limb salvage.

Dated 25 Jan 22, Special Order Work-Product indicates the applicant was permanently disability retired in the grade of staff sergeant with a compensable percentage for physical disability of 80 percent, effective 15 May 22.

Letter not dated, according to the ARPC advisory opinion, the claim was denied and returned to the ARPC technician on 13 May 22. This letter indicated the applicant was evaluated for the loss of the ability to independently perform two or more ADLs for more than 30 days which found, by the time of discharge on 8 Mar 19, the applicant was tolerating a regular diet and had "adequate" oral analgesia medication for the pain. He was assessed by physical and occupational therapy and

intensive inpatient rehabilitation was recommended. Durable medical equipment ordered included a tub transfer bench. He was then transferred on 8 Mar 19 for intensive inpatient rehab where he received intensive inpatient rehabilitation until the discharge from this facility on 28 Mar 21. Records of that admission were provided for review which indicated, by 27 Mar 21, he was independent in performing eating and upper extremity dressing with modified independence for showering/bathing, lower body dressing (including footwear), transfers, to include toilet transfers, and toileting hygiene. As part of the outpatient treatment (OT) assessment prior to discharge, the basic ADL assessment was documented:

“Pt (patient) seen in room supine. Pt was able to get out of bed maintaining NWB to RLE, Pt states the NWB of the LUE (left upper extremity) has been lifted and he has been using FWW (front wheeled walker) with no pain in arm, Pt was able to gather shirt from closet and change shirt. Pt propelled to outside bathroom and stand to FWW and ambulate to sink. Pt completed oral care and picked up dirty clothes from floor by holding onto counter and put them in a bag. Pt carried bag of dirty clothes to closet with FWW and then back to w/c (wheelchair). Pt propelled w/c to kitchen in gym. Pt completed kitchen mobility to manage getting into fridge, pots, and pans, dishwasher and plate, cup to table with w/c”

Based on this information, it was concluded the applicant had the ability to independently perform all covered ADLs by the time of discharge from inpatient rehab.

On 16 May 22, the applicant submitted an appeal to ARPC through counsel, disagreeing with the previous decision stating additional medical records were submitted for review (document provided by the applicant).

Letter not dated, according to the ARPC advisory opinion, on 1 Feb 23 it appeared the ARPC technician resubmitted the same SGLV 8600 form that was initially submitted on 12 Feb 21 claiming loss due to hospitalization. This letter indicated his claim for hospitalization for up to 15 consecutive days was approved. However, his claim for ADL assistance for 120 days and limb salvage was disapproved. The letter indicated all medical records submitted with the appeal (over 2600 pages), all records contained in the Armed Forces Health Longitudinal Technology Application (AHLTA) for the period of 1 Jan 19 through 19 Oct 20, the appeal letters from counsel, the applicant, and RN [Work-Product], and the pain management clinical notes from his clinical encounters which were available in the DoD electronic medical record were reviewed. No additional right lower extremity surgical procedures were required, and there remained no evidence right lower extremity amputation was considered, therefore TSGLI limb salvage was denied. The RN's summary states, per the discharge summary dated 28 Mar 19, physical therapists documented the applicant required minimal assistance for bed mobility, transfers, self-care, and max assist for lower body self-care activities (dressing). However, this statement is within a portion of the discharge summary that is the original admission history and physical carried forward into the discharge summary document and is also not a physical therapist's assessment but rather that of [Work-Product] MD, from an evaluation accomplished on 9 Mar 19. The physical therapist's documentation at the time of discharge clearly indicates the applicant achieved independent status with the ADLs of eating, grooming, oral hygiene, and upper extremity dressing, while he was

modified independent with toileting, shower/bathing, tub/shower transfer, lower extremity dressing with and without footwear, donning/doffing footwear, transfer bed to chair, toilet transfer, car transfer, and picking object. In fact, review of the inpatient rehabilitation records indicates independent or modified independent status had been achieved for all TSGLI ADL categories by 22 Mar 19. In addition, the RN's summary states his home therapy was placed on hold from the time he was discharged until Jun 19 due to a delay in insurance certification. However, this is an inaccurate statement, as the records indicate several visits by the physical therapist, with at least seven encounters from 7 Apr through May 19, although the actual encounter notes were not provided, for unclear reasons. Ongoing physical therapy (PT) is documented in outpatient clinical notes (trauma, orthopedic, pain management) during this time. Although a break in treatment did occur, this was only from 25 May through 12 Jun 19, and when PT resumed, the encounter note specifically documented he tolerated resumption well and during the lapse in treatment had performed gradual progression of weight bearing. The note stated while functional testing appears to have decrease in scores for 30 second chair sit to stand and tug, the patient is progression [sic] with addition of weight bearing to the RLE and also documented, standby assist was required for sit to/from stand. However, no other ADLs were addressed and there is no statement indicating any loss of ability to perform any ADL within one of the TSGLI categories. Regardless, the subsequent PT notes did indicate he had achieved independent status with sit to/from stand by 19 Jun, and continued to progress with ambulation in the home using a single crutch. On 25 and 27 Jun, the therapist assessed the applicant as independent with toileting, transferring to/from bed, and sit to/from stand, while requiring standby assist for tub/shower. The reason for this apparent decrease in functional ability since discharge on 28 Mar 19 was not well delineated, but there is no indication he was unable to self-bathe with a sponge bath; accordingly, there is insufficient information to indicate he was unable to bathe independently. There was no other indication of any interval loss of ability to perform ADLs following discharge from inpatient rehabilitation. The RN's statement equating the 3 Jul 19 assessment that standby assist was required for level surface assistance to a requirement for standby assist for going to/from and getting on/off the toilet is a further misrepresentation of the 3 Jul 19 encounter documentation, which clearly indicates the applicant was independent with toilet transfers, bed to/from chair transfers, and sit to/from stand transfers. Standby assist for level surface assistance related to his ambulation with a crutch does not reflect a loss of any ADLs eligible for consideration under TSGLI. It is acknowledged he experienced pain and fatigue, as noted in his statement, and it is further acknowledged this likely contributed to the prolonged rehabilitation; however, while documentation in military and civilian outpatient clinical notes from the period of 28 Mar through 12 Jul 19 does reflect limitations related to pain and fatigue, the documentation does not indicate this resulted in his inability to perform any ADLs. Rather, a pain management encounter on 22 May 19 specifically documented medication allowed him to be more functional in his daily activities and routine. The applicant's statement indicates his mother helped him significantly during the first four months after the accident; however, such assistance would have been provided as a convenience rather than a medical necessity because no substantiating objective evidence of a consistent, consecutive medical inability to accomplish ADLs due to OTI for any period approaching 30 days, let alone for 30 days or more was found.

On 30 May 23, the applicant submitted a second appeal to ARPC through counsel, disagreeing with the previous decision stating the newly submitted evidence demonstrates the applicant is entitled to TSGLI losses due to limb salvage of his right leg and the inability to perform at least two or more ADLs at the 120th consecutive day.

On 7 Oct 24, the applicant's second appeal for his TSGLI claim for limb salvage and loss of the ability to perform two or more ADLs independently was denied. The same reasoning as above was provided to the applicant with a further statement, to receive an additional ADL payment amount under loss 20 (OTI) after payment for hospitalization in the first payment milestone, the applicant must reach the next payment milestones of 60, 90, or 120 days. A required period of consecutive days of loss that is interrupted by a day or more during which the criteria for the scheduled loss are not satisfied will not be added together with a subsequent period of consecutive days of loss. The counting of consecutive days starts over at the end of any period in which the criteria for a loss are not satisfied.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

AIR FORCE EVALUATION

ARPC/DPTT recommends denying the application based on the previous findings from the medical boards. TSGLI provides coverage to any Service member insured under Servicemembers' Group Life Insurance (SGLI) who sustains a serious traumatic injury that results in certain prescribed losses. TSGLI provides between \$25,000 and \$100,000 of coverage depending on the loss incurred. When a claim is denied and the member disagrees with the results, a TSGLI denial letter is sent explaining the next steps to file an appeal. If the member wants to claim a different loss for the same traumatic event, a new SGLV Form 8600 must be submitted for the new loss.

The applicant was involved in a motorcycle accident on 1 Mar 19 resulting in injuries of a broken right femur and tibia/fibula, torn bicep in his left arm, bruising on left and right arm as well as extensive injuries to the right and left leg, laceration of the right index finger, road rash on the left lower leg (below the knee), sore abdomen, swollen groin, and pain in the neck. He submitted claims and appeals which were all denied except for loss due to 15 days of hospitalization.

On 14 Apr 23, the TSGLI regulation was updated for year-ten-review changes. During the process, the ADL OTI timelines (30, 60, 90, 120) were inadvertently changed to align with the ADL TBI timelines (15, 30, 60, 90). This accidental change was noticed and reported by the Army to Veteran's Affairs (VA) Insurance in the summer of 2023. Due to this change the applicant may have qualified for ADL loss due to an OTI; however, because he was approved for hospitalization, payment for hospitalization may only replace the first ADL milestone in loss 17, and payment will be made for 15-day hospitalization, coma, or the first ADL milestone, whichever occurs earlier. Once payment has been made for the first payment milestone in loss 17, there are no additional payments for subsequent 15-day hospitalization due to the same traumatic injury. To receive an

additional ADL payment amount under loss 17 after payment for hospitalization in the first payment milestone, the applicant must reach the next payment milestones of 30, 60, or 90 days.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 7 Jul 25 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of ARPC/DPTT and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant, through counsel, states he should have been awarded TSGLI for limb salvage of his right leg due to the extensive surgery he underwent to prevent amputation, and he should have been awarded TSGLI for needing assistance with ADLs, bathing, toileting, dressing, and transferring, for more than 120 days. However, the Board finds the surgery he underwent on 1 Mar 19 does not qualify as limb salvage for the purposes of TSGLI. Limb salvage is defined as a series of operations designed to avoid amputation typically involving bone and skin grafts, bone resection, reconstructive, and plastic surgeries which often occur over a period of months or years. The applicant underwent one surgery to repair his right leg with no indication multiple surgeries involving the above procedures were performed to avoid amputation. The Board further notes the review by RN [Work-Pro...] included his physical therapy notes but not his occupational therapy notes from his post-hospitalization records and stated these records indicated he needed physical assistance and/or standby assistance from his mother for at least 120 days and further noted his home therapy was placed on hold from the time he was discharged on 28 Mar 19 to Jun 19 due to a delay in insurance certification. However, the Board finds ARPC's review of all the medical documentation and opinions available for analysis indicates the applicant did not have a period of 30 or more consecutive days where he could not independently or modified independently perform two or more ADLs to qualify for TSGLI. Furthermore, the Board reviewed the medical documentation provided which only indicated the applicant possibly needed assistance with bathing. No other ADL was identified as needing assistance or standby assistance to perform. The Board noted the applicant's mother provided assistance, but medical documentation indicates the applicant was able to perform most ADLs without this assistance. Therefore, the Board recommends against correcting the applicant's records.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2024-03574 in Executive Session on 18 Jul 25 and 8 Aug 25:

Work-Product	Panel Chair
Work-Product	Panel Member
Work-Product	Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 9 Oct 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, ARPC/DPTT, w/atchs, dated 1 Jul 25.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 7 Jul 25.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

	9/1/2025
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Board Operations Manager, AFBCMR Signed by: USAF	